

**IN THE HIGH COURT OF KERALA AT ERNAKULAM**

**PRESENT:**

**THE HONOURABLE MR.JUSTICE S.SIRI JAGAN**

**TUESDAY, THE 28TH DAY OF FEBRUARY 2012/9TH  
PHALGUNA 1933**

**WP(C).No. 27210 of 2007 (L)**

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**PETITIONER(S):**

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**P.G.SASIDHARAN,  
THE PUBLIC INFORMATION OFFICER, COMMERCIAL TAXES  
ERNAKULAM.**

**BY ADV. SRI.K.J.ABRAHAM**

**RESPONDENT(S):**

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**1. THE STATE INFORMATION COMMISSION,  
REPRESENTED BY ITS SECRETARY, PUNNEN ROAD  
THIRUVANANTHAPURAM - 695 039.**

**2. RETNAKARAN K., KANNOLY HOUSE,  
KAKKODY MUKKU, KAKKODY P.O., KOZHIKODE.**

**R1 BY ADV.SRI.M.AJAY, SC, STATE INFORMATION COMMN**

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR  
ADMISSION ON

28-02-2012, THE COURT ON THE SAME DAY DELIVERED THE  
FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS

P1: COPY OF REQUEST FOR INFORMATION SUBMITTED BY THE  
2ND RESPONDENT

DT. 26.5.2006

P2: COPY OF THE REQUEST LETTER NO. C5-3383/06 DT.  
4.8.2006

P3: COPY OF ORDER OF THE 2ND RESPONDENT NO. 2528/SIC-  
GEN/2006 DT.

25.8.2006

P4: COPY OF THE ORDER NO. KI 35147/06 CT DT. 23.8.2006

P5: COPY OF ORDER NO. C5-3383/06 DT. 11.9.2006

P6: COPY OF THE PENALTY NOTICE NO. 2528/SIC-GEN/2006 DT.  
19.5.2007

P7: COPY OF THE AFFIDAVIT FILED BY THE PETITIONER DT.  
30.5.2007

P8: PENALTY ORDER ISSUED BY THE 1ST RESPONDENT DT.  
30.7.2007

RESPONDENT'S EXHIBITS: NIL

\\TRUE COPY\\

PA TO JUDGE

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S. SIRI JAGAN, J.

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W.P.(C) No.22710 of 2007  
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Dated this the 28th day of February, 2012

**JUDGMENT**

This writ petition arises under the Right to Information Act. The 2nd respondent filed a request under the Right to Information Act for information within the possession of the Public Information Officer, Commercial Taxes, Ernakulam. At the time when the request was submitted on 24.5.2006, the petitioner's predecessor in office, one Smt. Rahmanthnisa Begum was the Public Information Officer. She endorsed on the file that the views of the Commissioner of Commercial Taxes may be sought and thereafter, she entered on leave. In her absence, one Sri. J. Julies Smith was holding additional charge of the office of the Public Information Officer. But, he did not know of the request and he demitted office on 10.7.06. Thereafter, the petitioner took charge as the Public Information Officer. The request came to his attention on 13.7.06. But, he provided the information to the 2nd respondent only on 12.9.06, after sixty days. The 2nd respondent approached the Commission because of delay in furnishing information and it was during the pendency of those proceedings, the information was supplied. Thereafter, the State Information Commission initiated proceedings under Section 20 of the Act and by Ext.P8 order imposed on the petitioner penalty of Rs.7500/- for the delay in supplying the information. That order is under challenge in this writ petition.

2. The petitioner's contention is that penalty under Section 20 can be imposed only by finding that, without reasonable cause, the Public Information Officer refused to furnish the information. In this case, when the request came to this attention, he immediately wrote to the Commissioner of Commercial Taxes for clarification as to whether the information can be supplied, in view of Section 85 of the Kerala Value Added Tax Act. On 25.8.2006, the State Information Commissioner directed the petitioner to dispose of the request of the 2nd respondent within ten days and to report compliance before 15.9.2006. In the meantime, on 2.9.2006, the Commissioner of Commercial Tax, by letter dated 23.8.2006 also clarified that the information sought for would not come under any prohibitory clause under Right to Information Act.

On 8.9.2006, the petitioner directed the Commercial Tax Officer, Kalamassery to furnish the information, which was supplied on 12.9.2006. The petitioner submits that the request of the 2nd respondent was the first of its kind dealt with by the petitioner and the petitioner did not even have a copy of the Right to Information Act which was actually borrowed from the office of the Deputy Commissioner and the petitioner was not very sure as to whether the information was one that could be legally supplied. Therefore, according to the

petitioner, the petitioner had sufficient and reasonable cause for not furnishing the information within the time stipulated, is the contention raised.

3. The learned counsel for the State Information Commission submits that the reasons put forward by the petitioner are not valid reasons for delay in furnishing the information. According to him, the ignorance of law is no excuse. The petitioner had sufficient time to furnish the information by obtaining clarification, if necessary from the Commissioner of Commercial Taxes. Therefore, it cannot be stated that the petitioner had sufficient cause for not furnishing the information within the time stipulated, is the contention raised.

4. I have considered the rival contentions in detail. In Ext.P8, there is no specific finding that the petitioner delayed furnishing of the information without reasonable cause. But, still the explanation offered by the petitioner would only be sufficient to reduce the penalty and not to absolve the petitioner from liability. Ignorance of law is no excuse. The petitioner had sufficient time to get himself acquainted with

the law and get clarification within the time stipulated. There was delay in doing the same for which I am of opinion that a nominal penalty has to be imposed on the petitioner, which is necessary to ensure strict compliance with the provisions of the Right to Information Act, by the petitioner and others in future.

5. In the above circumstances, while upholding Ext.P8, I reduce the penalty payable by the petitioner to Rs.1,000/-, which shall be paid within two weeks from today.

The writ petition is disposed of as above.

S. SIRI JAGAN, JUDGE

**acd**